

15-1358 ZIGLAR V. ABBASI

DECISION BELOW: 789 F.3d 218

LOWER COURT CASE NUMBER: 13-981, 13-999, 13-1002, 13-1003, 13-1662

QUESTION PRESENTED:

1. Did the Court of Appeals, in finding that Respondents' Fifth Amendment claims did not arise in a "new context" for purposes of implying a remedy under *Bivens v. Six Unknown, Named Agents Of The Federal Bureau Of Narcotics*, 403 U.S. 388 (1971), err by defining "context" at too high a level of generality where Respondents challenge the actions taken in the immediate aftermath of the attacks of September 11, 2001, by Petitioner James W. Ziglar, then the Commissioner of the United States Immigration And Naturalization Service, the then-Attorney General of the United States, and the then-Director of the Federal Bureau of Investigation regarding the detention of persons illegally in the United States whom the FBI had arrested in connection with its investigation of the September 11 attacks, thereby implicating concerns regarding national security, immigration, and the separation of powers?
2. Did the Court of Appeals, in denying qualified immunity to Petitioner Ziglar for actions he took in the immediate aftermath of the attacks of September 11, 2001, regarding the detention of persons illegally in the United States whom the FBI had arrested in connection with its investigation of those attacks, err: (A) by failing to focus on the specific context of the case to determine whether the violative nature of Mr. Ziglar's specific conduct was at the time clearly established, instead defining the "established law" at the high level of generality that this Court has warned against; and (2) by finding that even though the applicability of 42 U.S.C. § 1985(3) to the actions of federal officials like Petitioner Ziglar was not clearly established at the time in question, Respondents nevertheless could maintain a § 1985(3) claim against him so long as his conduct violated some other clearly established law?
3. Did the Court of Appeals err in finding that Respondents' Fourth Amended Complaint met the pleading requirements of *Ashcroft v. Iqbal*, 556 U.S.662 (2009), and related cases, because that complaint relied on allegations of hypothetical possibilities, conclusional assumptions, and unsupported insinuations of discriminatory intent that, at best, are merely consistent with Petitioner Ziglar's liability, but fall short of stating plausible claims?

CONSOLIDATED WITH 15-1359 AND 15-1363 FOR ONE HOUR ORAL ARGUMENT.

JUSTICE SOTOMAYOR AND JUSTICE KAGAN TOOK NO PART.

CERT. GRANTED 10/11/2016